

None but the **SHERIFFS** ought to name and return **JURORS** to serve in *Inquests* before *Commissioners* of *Oyer and Terminer*.

The Statute of 1 H. 4. cap. 9. I find in Rastal's Collection in these words.

Item, Because that now late Inquests were taken at *Westminster* of persons named by the Justices, without due return of the Sheriff, of which persons some were outlawed before the said Justice of Record, and some fled to Sanctuary for Treason, and some for Felony, there to have refuge, by whom, as well many false offenders were indicted as other lawful Liege-people of the King, not guilty, by Conspiracy, Abetment, Imagination of other persons for their especial advantage and singular lucre, against the course of the Common Law used and accustomed before this time: Our Sovereign Lord the King, for the great ease and quietness of his People, will and granteth, That the same Indictment be made, with all the Appurtenances to the same, be revoked and annulled, for ever hold and holden for none. And that from henceforth no Indictment be made by any such persons, but by Inquests of the Kings lawful Liege-people, in the manner as was used in time of his noble ancestors, returned by the Sheriffs or Bailiffs of Franchises, without any denomination to the Sheriffs or Bailiffs of Franchises before made by any person of the names, which by him should be impanelled, except it be by the Ministers of the said Sheriffs or Bailiffs of Franchises, sworn and known to make the same, and other Ministers to whom it pertaineth, to make the same according to the Law of England. And if any Indictment be made hereafter in any point to the contrary, that the same Indictment be also hold, revoked, and for ever holden for none.

This Statute was made in affirmance of the Common Law, and by the Preamble appears to be enacted upon complaint of the like practices as are now attempted, (*viz.*) That Jurors to serve on Inquests may be named by such as the Court shall appoint; which would overthrow the most beneficial and necessary part of the Law.

After this Law was made, till 3 Hen. 8. I presume Mr. Attorney himself will admit that this Law of Hen. 4. ought to have been observed: which if so, then if the Statute of 3 Hen. 8. cap. 12. do not extend to reform Pannels of Inquests to be taken before Courts of *Oyer and Terminer*, this Statute of Hen. 4. is in as full force as ever it was, and so ought to be obeyed by the Sheriffs as well as others. And if the Sheriffs shall obey the Court to serve a turn in a matter of so great consequence, they will be liable to answer for the same, and ought to be punished for betraying their trust.

Now the Statute of 3 H. 8. is in these words.

Whereas great extortions and oppressions be and have been within the more part of all the Counties and Shires within this Realm of *England*, by the subtilty and untrue demeanour of Sheriffs and their Ministers, committed and done unto many persons in great number of the King's Subjects, by mean and making, and returning at every Sessions holden within the said Counties and Shires for the body of the Shire, in taking and putting in, and returning of names of such persons, as for the singular advantage, benefit, and gain of the said Sheriffs and their Ministers will be wilfully forsworn and perjured by the sinister labour of the said Sheriffs and their

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Mrs. *Fitz-Harris* saith, She saw the Lord *Howard* at her Husband's Lodgings (some short time before her Husband was made Prisoner) deliver a Paper to her Husband, and said, *They were notable Heads*; and withal said, *That when those things were put in order, the People would rise, and then they would seize the King, and keep him until he had passed the Bill of Excluding the Duke of York, and settling the Succession upon the Duke of Monmouth.* And saith, (reading the Paper left in her Husband's Chamber by the Lord *Howard*.) she remembers these Expressions in that Paper; *As it was the undoubted Right of the People to oppose a Popish Successor, so it was to oppose a Possessor that would follow evil Council, and not be ruled by his Parliament*: At which time Mr. *Fitz-Harris* call'd for a Pen and Ink, and told his Wife that he had promised not to deliver that Paper in that hand; and she asking whither he was going? her Husband answered, He was going to Mr. *Everard's* Chamber to have that Paper drawn up. And before the Lord *Howard* went out of Mr. *Fitz-Harris's* Chamber, Mr. *Fitz-Harris* asked the Lord *Howard* what he should do for money? to which the Lord *Howard* replied, *Let me alone for that*: And that within a day or two her Husband brought home the Libel to his Wife, and read it to her; upon the reading of which, she asked him whether *Everard* had drawn that Book out of those few Heads? her Husband answered, Yes; for that Mr. *Everard* was a man of Parts.

Mrs. *Terrisha Peacock* saith, that being in her Masters Chamber, or Dining-room, she found the Lord *Howard* in the Dining-room, and saw the Lord give her Master a Paper, and told him it was a notable thing, and bid him read it; and said, *If this were once Published about, the People would rise, and then we will seize upon the King, and keep him, until such time as he passes the Bill, concerning the Exclusion of the Duke of York; and settle the Crown upon the Duke of Monmouth*; And Mr. *Fitz-Harris* asking him what he should do for Money? The Lord *Howard* said, *Mr. Fitz-Harris should have enough within a Week*; and she saith, he gave it for his Wife to Read; and after she saw her Master Copy it out; and asking whether he would come in to Dinner? He answered, he had earnest business at *Grays-Inn*, whither he was going.

This was the true Evidence given before Us Gentlemen of the Grand Inquest, June the 21. 1681.

*This is a true Copy of the
Original Paper.*

Charles Lee:
William Blucke.
Jof. Beale.
John Nichol.

LONDON, Printed for S. Carr, 1681.

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Ministers: By reason whereof many and divers substantial persons, (the Kings true Subjects) contrary to good equity and righteousness, have divers times and many, wrongfully been indicted of divers Murders, Felonies, and other misbehaviour, by their covin and falshood, to the utter undoing of their Lives, loss of their Goods, and their Lands: by reason whereof they, and every of them, in avoiding the untrue trouble and vexation, which to them might come and ensue by reason and occasion of the same false Indictments; and also sometime by labour of the said Sheriffs divers great Felonies and Murders concealed, and by the said persons. Also by the said Sheriffs and their Ministers partially returned not presented, be and have been compelled to make Fines and give rewards to the said Sheriffs and their Ministers. Wherefore be it enacted, ordained, and established, by the King our Sovereign Lord, and by the assent of the Lords Spiritual and Temporal, and the Commons of this present Parliament assembled, and by the Authority of the same, That all Pannels to be returned, which be not at the suit of any party, that shall be made and put in by every Sheriff and their Ministers afore any Justice of Goal-delivery, or Justice of Peace, whereof one to be of the Quorum, in their open Sessions to inquire for the King, shall be reformed by putting to and taking out of the Names of the persons which so be impannelled by every Sheriff and their Ministers, by the discretion of the same Justices, before whom such Pannels shall be returned. And that the same Justice and Justices shall command every Sheriff and their Ministers in his absence, to put other persons in the same Pannel, by their discretions, and that the same Pannels so reformed by the said Justices, be good and lawful. And that if any Sheriff, or any their Minister, at any time do not return the same Pannels so reformed, that then every such Sheriff or Minister so offending, for every such offence, shall forfeit Twenty pounds Sterling-money of England; the one half thereof to our Sovereign Lord the King or his Heirs, and the other half thereof to him or them of his Subjects that will sue for the same by Action of Debt at the Common Law, or Bill, or Complaint, where it shall fortune any such to fall and be. And that none essoin nor protection be allowed for the Defendant or Defendants in that Action or Plaints, nor that the said Defendant nor Defendants therein be admitted to wage their Law. And that the Kings Pardon shall be no bar against the party and parties in the same, that any such Action shall sue.

By which it does not appear that the Statute of *H. 4.* was altered in any thing, as to Inquests to be taken before Commissioners of Oyer and Terminer, which is that is at present contested for.

Now no Peer can be indicted legally for Treason or Felony, before any other than Commissioners of Oyer and Terminer; or in the Kings-bench, as my Lord Coke in his third Institutes, p. 28. saith was adjudged in the Case of Thomas Duke of Norfolk, in 13 *Eliz.* And then how can this Statute of 3 *H. 8.* be of any use to carry on the present Intrigues, unless the Sheriffs (which no man can believe) will be so far over-awed as to joyn therein, and make a precedent to the ruine of themselves and the whole Nation, by permitting Inquests to be pannelled to inquire before Commissioners of Oyer and Terminer, to hang the Peers and hazard the Commons.

I shall onely add these words taken out of the Statute 1 and 2 *P. and M. cap. 9.* and leave the consideration thereof to the Reader. And it is further enacted by the authority aforesaid, That all *Cefals* hereafter to be had, awarded, or made for any Treason, shall be had and used onely according to the due order and course of the Common Laws of this Realm, and not otherwise.

